

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Rafeal Barrett,)	Civil Action No. 5:14-3901-MGL
)	
	Plaintiff,	
)	
v.)	<u>ORDER</u>
)	
Sgt T. Gibbons, Nurse T. James, and Mr. Adger,)	
Inspector General,)	
Defendants.)	
_____)	

Plaintiff Rafeal Barrett, (“Plaintiff”), an inmate proceeding *pro se*, filed the instant action pursuant to 42 U.S.C. § 1983. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial handling.

On March 10, 2015, the Magistrate Judge issued a Report and Recommendation, (“the Report”), (ECF No. 57), recommending that this Court: (1) decline to enter default against Defendants for failing to answer Plaintiff’s Complaint; (2) grant Plaintiff’s Motion to Dismiss the Complaint as against Defendant Nurse T. James, (ECF No. 37), and (3) deny Plaintiff’s Motion for Judgment as a Matter of Law. (ECF No. 39). Plaintiff filed an Objection to the Report on March 20, 2015. (ECF No. 64). The matter is now ripe for review by this Court.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28

U.S.C. § 636(b). In the absence of a timely filed Objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

In light of the standards set forth above, the Court has reviewed, *de novo*, the Report and the Plaintiff’s Objection. The Court has undertaken this *de novo* review, even though Plaintiff’s filing, titled “Objections to Report and Recommendation,” (ECF No. 64), does not actually advance any specific objection to the Report but instead asks the Court to construe Plaintiff’s Motion for Judgment as a Matter of Law “as a supplement to [his] pending Motion for Summary Judgment.” (ECF No. 64 at p. 1). Plaintiff does not meaningfully address any of the Magistrate Judge’s core legal determinations.

For the forgoing reasons, the Court concurs with the reasoning of the Magistrate Judge and adopts the Report and incorporates it herein by reference, (ECF No. 57), overruling Plaintiff’s Objection. Plaintiff’s Motion to Dismiss the Complaint as against Defendant Nurse T. James, (ECF No. 37), is thereby **GRANTED** and Plaintiff’s Motion for Judgment as a Matter of Law as against the remaining Defendants, (ECF No. 39), is thereby **DENIED**. Furthermore, the Court declines to enter default against any Defendant, all of which have timely appeared.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

April 13, 2015
Columbia, South Carolina